

**Taking land around the world:
International Trends in the Expropriation for Urban and Infrastructure Projects**

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May 2007

Lincoln Institute of Land Policy
Working Paper

Introduction

Compulsory purchase, expropriation, eminent domain, or simply “taking”, are different names for one and the same legal institution: That which allows states to acquire property against the will of its owner in order to fulfill some purpose of general interest. Traditionally, expropriation has been considered one of the main instruments of land policy. However, nowadays it is subject to a number of criticisms and mounting social resistance. Campaigns for housing rights, movements for the defense of property rights, legislative and judiciary activism, and land tenure reforms, among other factors, are changing the conditions under which governments exercise their power of eminent domain.

In some cases this is good news. The rise of democratic regimes in many countries has reduced the arbitrary taking of land, and new forms of legal protection are helping individual home owners or peasants adversely affected by infrastructure projects. At the same time, satisfying diverse public needs has become highly complex, precisely because the power of eminent domain has been weakened. In metropolitan areas like São Paulo, judicial decisions have forced local governments to pay exorbitant compensations with enormous financial consequences. In Mexico City, conflicts over expropriation cases took the country close to a constitutional crisis due to extreme and erroneous judicial activism.

As part of the institution of private property, eminent domain attracts an ideological debate in which many observers will be for or against it as a matter of principle; but it is difficult to deny that there is a justification for the existence of this power when a public need is considered more important than the interests of those who own the land. This paper is the result of a first exploration to recent worldwide trends regarding the law and policy of the compulsory acquisition of land for urban and development projects. This task faces two main obstacles. On the one hand, governments do not produce systematic information about the use they make of their power of eminent domain, even when they recognize it as an instrument of their land policies. This makes policy analysis particularly challenging. On the other hand, academic research on the subject has focused on legal issues, leaving aside other dimensions of this government practice. Thus, the accumulated knowledge on the subject has a strong disciplinary bias.

Given the great diversity of situations that arise in different countries, it is necessary to define some general questions that guide our research. For that purpose, we are following three main avenues: First, we place the discussion on expropriation within the wider theme of the institution of property. Second, we take up the question that several authors have posed regarding whether there is a global convergence in property regimes around the world (Jacobs, 2006, Woodman, et. al. 2004). Thirdly, we suggest that for an orderly and fruitful comparative analysis of trends of eminent domain, we should look at the different contexts in which this is being discussed around the world. Our main conclusion is that, even if there are many symptoms that expropriation has fallen in deep disregard in many countries, there are not sufficient elements to proclaim its demise as an instrument of land policy.

The main policy recommendation that emerges from this first approximation is that while expropriation must be reconsidered as an instrument of land policy, “reconsidering” should not be interpreted as “dispensing with.” Rather, it should mean that governments need to find a new place and function to the use eminent domain power as a policy instrument.

1. Major trends in policy and law

1.1. *The discontent about expropriations*

Let us begin by looking at some of the reasons for the growing discontent regarding the use of eminent domain in different parts of the world. Before we show the variety of those reasons, it is interesting to note that it was only in the last decade that such dissatisfaction became generalized. Three decades ago, the dominant approaches in urban law, planning and social sciences in general, saw the expropriation of land as a crucial component of any development strategy. It was part of an equation in which private interests were on one side, whereas in the other side the public interest was a coherent combination of infrastructure works and land use regulation. Expropriation was the ultimate tool for advancing public over private interests and planning was the art of getting the right balance. For one author, there could not be urban policies “worth the name”, if public authorities did not have the power to acquire and control land (Fromont, 1978).

The first signs that expropriation was imposing high social costs (and not only the sacrifice of selfish individual interests) became evident with dams in developing economies. The construction of those symbols of development, whether for energy or for irrigation, meant the displacement of large numbers of people. According to Michael Cernea, in the last decade of the 20th Century, the number of displaced persons due to infrastructure projects reached between 90 and 100 million (Cernea, 2000). In some cases, those projects have displaced almost 1% percent of the population of an entire country.

People in Africa have been particularly affected by the construction of dams, as there was an important surge of them in the seventies, largely due to the coincidence of de-colonization processes throughout the continent. Certainly, colonial powers had deployed their own territorial policies, displacing people for a number of causes (access to natural resources, creation of urban centres in strategic locations), but development projects became a new, and more pervasive, source of displacement in post-colonial times. And their social impact got even more acute as land became scarce.

Even when infrastructure projects tried to reduce the social impact of population displacement, as in the case of dams funded by the World Bank or USAID in the eighties, that goal was far from being accomplished.

The construction of dams became emblematic as a form of ‘displacement by development.’ But there are other forms of land dispossession that affected millions in post-colonial societies. “Villagization,” as it occurred in Tanzania (Benjaminsen and Lund, 2003) and land grabbing in Zimbabwe (Maposa, 1995), are only two examples of politically induced (and sometimes violent) changes in the relation between people and land that have had enormous consequences on societies. Regardless the intentions or the political context that explain such processes, there is no doubt that they constitute extreme forms of uncompensated taking of land from a great number of people who depended on it for their subsistence.

Expropriations related to infrastructure that imply peoples’ relocation, have an impact that goes beyond an economic loss. This is aggravated by the fact that legal systems usually do

not recognize the difference between taking land away from people who live on (and from) it, than expropriating land from individuals or organizations for whom land is only an “asset.” Obviously, expropriation should not be confused with resettlement. The latter can take place without the former, and vice versa. But it is important to have those two situations in mind, in order to recognize two extreme forms of social cost. On the one hand, there is a high social cost in expropriations where land is expropriated with low (or no) compensation and people are forced to leave the place they inhabit. At the other extreme, expropriation procedures may result in high costs to society as a whole when, due to judicial decisions, governments are forced to pay exorbitant sums to land owners, as it has happened recently in Mexico and Brazil.

Expropriation of land as part of infrastructure projects has not only been part of development policies in post-colonial settings. The so-called emerging economies, particularly those with high and sustained growth rates like China, have resorted to huge projects in order to face their transport and energy needs. The Three Gorges dam is certainly the most publicized initiative in that context, and it is not difficult to see why it engrosses the list of projects with dubious environmental and social record (Padovani, 2003).

In many of these cases, the question becomes aggravated by two causes: the lack or insufficient recognition of land rights of the dispossessed population, and the weakness of the rule of law. Clearly, being deprived of land rights or not having access to a legal remedy to defend them is the ultimate state of vulnerability in relation to tenure. However, these elements should not to be seen as external to (or separate from) expropriation as a legal institution. The single action by which a government takes someone’s property is only a moment in the history of a property right. It is after an expropriation has had its full effects (including the way courts deal with it) that we can establish the content and the extension of a property right. This is important if we are to understand the relation between expropriation and a wider issue: land tenure. If, in many countries, the removal of people from their land takes place without (or with minimal) compensation, that is precisely a sign of the weakness of their property rights.

This is far from being a mere legal technicality; it is a crucial element to understand the impact of taking land for public uses. In countries that have undergone major land tenure reforms, as a result of which certain groups have been awarded titles, while other users of the land (like herders) have been left without rights, the potential inequality in the new tenure arrangement will materialize as soon as land is taken for an urban or infrastructure project. That inequality is not the result of the expropriation itself, but of the operation of an ill-conceived tenure system. Thus, both tenure systems and the operation of the legal system must be taken seriously if we want to understand the meaning and the impact of expropriations in different contexts. For the moment, it suffices to say that the literature on this subject shows that, in the last decades, part of the vulnerability of people affected by expropriations is closely related with those two crucial elements.

Thus far we have referred mainly to institutional questions. But there are also demographic and cultural aspects. In the last decades, conflicts over the expropriation of rural land seem to be less frequent than conflicts in the context of urbanization processes.

Cultural changes have also played their part, especially regarding big infrastructure projects. Dams, highways and ports have lost the appeal they once had as symbols of

progress. As environmental and wider social arguments gain importance in public opinion, resistance against them become relevant; thus opposition to expropriations comes not only from owners but also from wider segments of society. One of the many examples of this is the ill - fated project of a new airport for Mexico City. After intense opposition from one of the villages whose land was being expropriated, and the mobilization of dozens of social organizations from many parts of the country, the Federal Government decided to abandon the project in 2002. This was seen by some commentators as the first great failure of Vicente Fox's administration, which had begun as the main outcome of Mexico's transition to democracy; but the truth is that wide sectors of public opinion expressed their sympathy for 'peasants against airplanes.'

In sum, in recent times, the use of eminent domain power in developing countries has been associated with the displacement of millions of people from the lands that was considered to be 'theirs,' with the lack of recognition of property rights, the limited access to judicial remedies, and with a growing opposition to the infrastructure and urban projects for which that power is wielded.

Now dissatisfaction with expropriation has not been exclusive of the developing world. In the U.S.A., by means of both political and judicial activism, there have been serious attempts to put limits to eminent domain powers. The "property rights movement" enjoys growing support in several states of the Union and has launched initiatives in that direction. On the other hand, the Supreme Court has resuscitated two issues that had been dormant in takings jurisprudence for a long time: the question of "regulatory takings," that means the need to compensate for certain land use restrictions (as in the 1992 Lucas case) and, more recently, the question of whether it is correct to take land from one person to give it to another person, even if the latter would promote development projects from which the community would obtain benefits (Kelo).

At the same time, European countries like France and Italy, where land use policies and urban law had never been seen as being in conflict with the rule of law, have had to adapt their legislation in order to restrict the discretionary power exerted in expropriations, as a result of rulings from the European Court of Human Rights. In the following section we will review some of those legal developments. Here it suffices to say that they also reflect a growing discontent with expropriation practices.

Such discontent is also apparent in academic research. If, three decades ago it would have been improbable to see sociologists taking seriously the impact of expropriations on the lives of property owners, the works of Imrie and Thomas (1997) and Fabienne Cavaillé witness a change in this respect. In *L'expérience de l'expropriation*, the latter shows not only what people have to go through when expropriated for a highway. Her work is part of a new way of looking at the institution of property in which the possession of land and houses is "...for the individual the confirmation that he is part of a community" (Cavaillé, 1999). It is now a common place to say that the boundaries between public and private interests have become blurred. Probably it is an exaggeration to say that all this means a "crisis" for expropriation as an institution, but there are enough symptoms, in many different contexts, that it is being seriously reconsidered. In any case, it is important to assume the task of clarifying what is actually happening. In order to explore this question in different parts of the world, we will now deal with changes in policy and law, as well as with the driving forces behind them.

1.2. Policy Changes: Obscure Facts, Clear Directions?

Policy analysis requires quantitative information about the way a government task is carried out. In so far as expropriation is considered as an instrument of land policy, an evaluation of its use cannot be accomplished without quantitative data. We need to know how extensively it is used, for what purposes, and how all this changes through time. Also, it is important to know the level of compensations that are paid to owners, whether payment takes place before or after the occupation of land, and so on. Our first finding in this respect is the lack of official sources with that kind of information. It seems that one thing is to recognize expropriation as an instrument of land policy, and something different is to keep systematic records of its use. There is a number of ways for researchers to overcome this situation, but for the moment it makes very difficult the task of determining clear trends of expropriation as a government practice.

In fact, we did not find one single country that reports the use of expropriation in a systematic way. The main source is the judiciary and it does have a high qualitative value, as it helps us to understand the way conflicts over expropriations are dealt with, but it does not say anything about the number of cases that do *not* become legal conflicts. Even when there are professional groups interested in the subject, aggregate information is not available. On the side of the Executive branch, information about procurement practices may be abundant but it is generally poor when it comes to crucial policy issues. Besides, eminent domain powers for urban purposes are frequently exerted by local governments, which make it improbable that national statistics include this kind of information, even in highly centralized countries like France. Researchers who have tried to find general trends have had to build their own data from *ad hoc* sources.

Indeed, one of the antecedents of this paper was a project sponsored by the Lincoln Institute of Land Policy in 2005 to explore the use of expropriation for urban development in Mexico (Herrera, 2005, Saavedra, 2005). It took several months to build a data base with all the expropriation decrees issued by the federal government between 1968 and 2005, and it does not include information about the amount of compensations paid. Figures 1 and 2 show the evolution of the use of expropriation in that context.

Figure 1: Mexico: Urban Expropriations 1968-2004: area and expropriation decrees by year
Area (hectares) Decrees

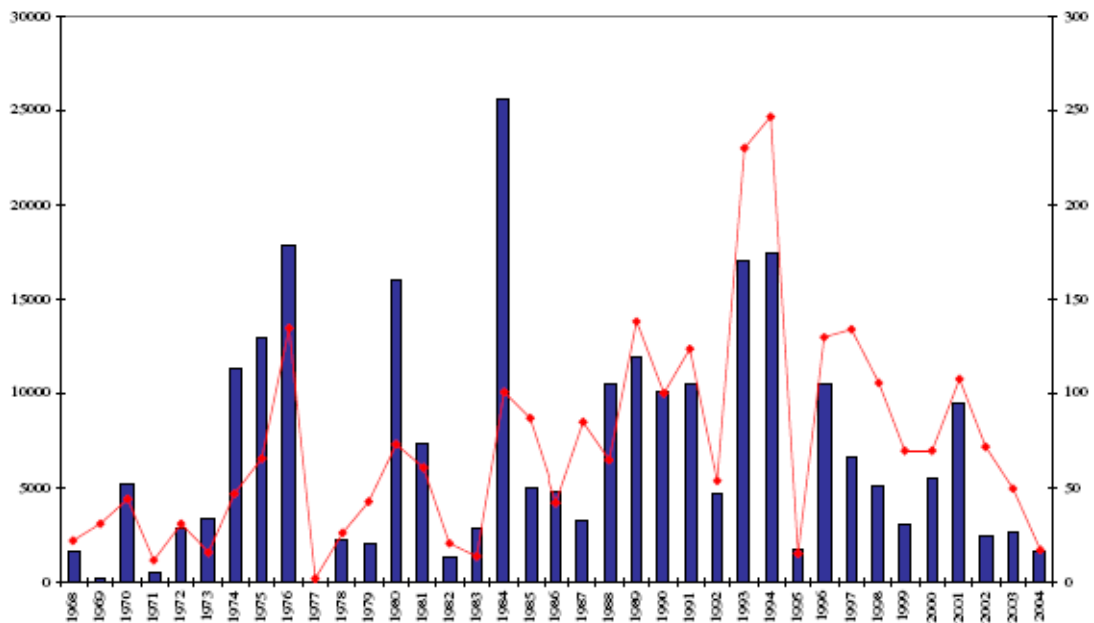
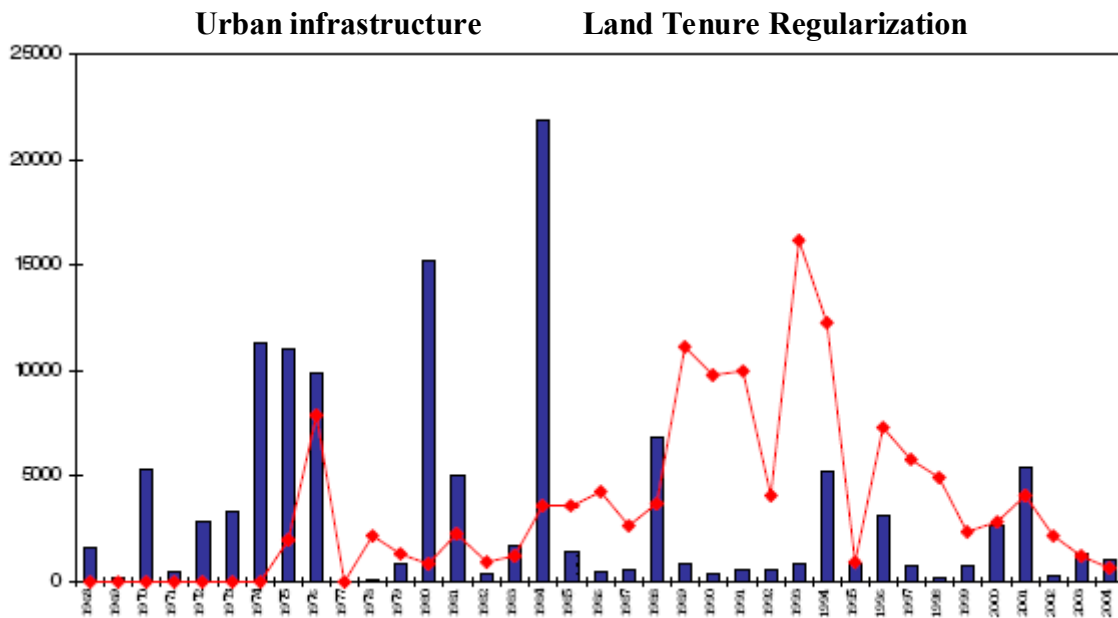


Figure 2: Area expropriated according to type of expropriation 1968-2004 (Hectares)



The interest of these data refers to the questions that it allows us to pose. For example: one may speculate whether the general decrease of expropriations for infrastructure projects has to do with structural adjustment policies that reduced funding for them, or to other factors such as social resistance or changing priorities within government. Also, the increase of

expropriations for land tenure regularization projects has to be explained in terms of the prevailing land tenure systems.

Academic literature provides useful qualitative analysis and sometimes vivid accounts of the impact of expropriations in social life, but on the whole it does not offer an idea of the dimensions of expropriation within the universe of urban policies. The material we have revised so far leaves us with scattered, anecdotic and mostly undocumented assertions as to the use of eminent domain. Thus, the notion that, for a number of factors, the use of expropriation would be declining appears as a sound hypothesis but cannot be easily documented. Moreover, trends seem to be rather heterogeneous. In the spirit of encouraging a debate, rather than presenting research results, we suggest that, for this purpose, countries can be divided up into three groups: those with high economic growth rates in which strong states, with a correspondingly weak rule of law, make extensive use of the power of eminent domain; countries with weakened states (and economies) where the use of expropriation has decreased; and highly industrialized countries where despite public opinion movements around expropriation, it is still used on a regular basis as part of urban policies.

In the first group, the most obvious case is China, with other Asian countries such as Korea, Singapore and Taiwan. According with a recent account of expropriation in the Pacific Basin, “the Asia Pacific Region and its rapid urbanization has generated a need for both land use control and use of compulsory purchase powers” (Kokata and Callies, 2002, I). Even if there is no data available, everything seems to confirm that the massive taking of rural land is keeping the pace of economic and urban growth. Recent legislation on property rights, combined with growing social resistance, might change this trend in China, but that still remains to be seen.

The second, and extremely heterogeneous, group is formed by countries in which a number of factors contribute to a reduction in the use of expropriation. Apart from structural adjustment programs, that reduce public investment, and social resistance, that constitutes a political constraint to projects, it is important to note the growing role that the judiciary is playing in many parts of the world to restrict governments’ abuses. For example, we are informed that in Ghana courts decisions against the state in expropriation cases have “...slowed the pace of compulsory acquisition considerably” (Ashie Kotey, 2002). In the case of Mexico all three factors are present and explain the trends shown in Figure 1.

Within this group, the case of Brazil deserves a special mention. Many expropriations for urban development projects are successfully challenged in courts and judges award huge compensations with high interest rates, as a result of which local governments have accumulated judicial debts (called *precatórios*) that are driving them to critical conditions. As a recent survey shows, “non-compliance with official demands can result in the sequestration of federal, state or municipal assets as well as intervention in the respective management regimes” (Maricato, 2000). From the financial point of view, “an explosive combination of interest-on-interest, monetary correction and legal fees effectively makes the debts virtually unredeemable” (id.). To give an idea of the size of the problem, only in the State of Sao Paulo “104 intervention orders have been issued against 60 municipalities;” in one single expropriation the amount of the *precatório* “is equal to five years or more of the entire municipal budget” (id.).

The third group includes highly developed countries in which there are intense debates around eminent domain in the realms of law and politics, which does not necessarily lead to radical changes in the way this instrument is actually used. In the U.S.A., the *Lucas* case reopened in 1992 the issue of regulatory takings and produced the fear that the planning system could be seriously weakened. More recently, the *Kelo* decision prompted initiatives to restrict the use of eminent domain for projects that would involve the transfer of land to private developers.

As we said before, there is no doubt that the property rights movement has been a growing force in the last two decades and that, as we will see, it seems highly probable that the law of eminent domain will change. However, when eminent domain is seen from the perspective of policy analysis the picture is somewhat different. According to a 2003 survey that covered the 239 largest cities in the U.S.A., expropriation seems to be alive and well, as it passed the proof of equity, effectiveness, and efficiency. Noteworthy, "...in 49% of the cases, the property was conveyed to real estate developers" (Cypher and Forgey, 2003), which represents one of the main issues raised by the property rights movement. At the same time, the level of success of the use of eminent domain can be seen in the fact that "...only in 3% of the cases did litigation create an extensive delay in the development of various projects."

By pointing at these research findings we are not trying to deny the impact that legal changes may have in the practice of expropriation or to suggest that changes in public opinion are irrelevant. Our intention is to illustrate the importance of policy research if we want to see what happens in practice. In this case, it prevents us from avoiding a premature conclusion about the "demise" of expropriation as an instrument of land policy. The survey by Cypher and Forgey proves that debates within the realms of law and public opinion cannot give us a precise image of what happens in practice.

In sum, there are sufficient indications that there is not a universal, let alone a uniform, decline in the use of expropriation. And even if there is a general trend in that direction, exploring the varying conditions under which it takes place is relevant for future research.

If there is not enough quantitative data about the actual use of expropriation, the tendencies in policy orientation is also a grey area. As we said before, despite the fact that eminent domain is recognized as a policy instrument, governments do not set explicit goals nor generate evaluation exercises about its use. Even if one can find a 'rationale' behind decisions as to the use of eminent domain powers or other forms to acquire or to develop land, those decisions seem to be more a pragmatic response by governments to specific conditions than a conscious, let alone an explicit, effort in that direction. Obviously, changes in eminent domain law can be said to express the adoption of land policies. However, those changes are more significant as *limits* to the use of eminent domain power than as clear indications of the place that its use will have in the context of land policy as a whole.

Now the lack of explicit policy statements on expropriation seem to be more evident in the case of governments: as far as we can see, they do not communicate in a programmatic fashion the way they will use eminent domain or the reasons for a particular course of action. In contrast, multilateral organizations have been adopting clearer positions in this respect. In particular, the World Bank and the USAID have contributed to the diagnosis of the social impact that expropriations have had for populations displaced by infrastructure

and urban development projects – especially when such projects have been financed by those organizations. After the recognition of such social costs, some of them have adopted clear and assertive policy orientations in this respect (Huggins, et al., 2003, Deininger, 2003). Indeed, there have been attempts to reduce the social impacts of development projects, although there are not signs that things have improved in a significant way.

An interesting aspect about policies adopted at international level refers to the different discourses that prevail in financial organizations, as opposed to that of the UN system and NGOs. In the latter two settings, the concept of *housing rights* organizes the discourse around evictions that are associated to expropriations. In contrast, financial organizations use the language of *property rights* to pose the problem in terms of public policy. More than a mere lexicological difference, this reflects different ways of defining the underlying issues: the concept of property rights (especially as used in the context of the World Bank) is part of an economic theory of development, whereas the concept of housing rights refers to a moral imperative that comes associated to doctrines of social, economic and cultural rights. Although security of tenure is seen as a common goal of all land policies, there are different philosophical foundations for the institutions that are to be created in order to attain that goal. We will come back to the fact that, in the debate on expropriations, different institutional settings privilege different sets of issues.

1.3. Legal changes: one direction, many contexts

In section (2) of this paper we deal with the way different legal systems cope with the more salient issues in the field of eminent domain. Here we will only point at the general direction in which legal systems are moving regarding expropriation. If there is not clarity about tendencies in the way eminent domain powers are being used in practice, when we look at legal developments we get a much more precise image of general trends – which, again, does not guarantee that judges around the world are going to follow the same pattern at the moment of adjudicating concrete cases.

Almost without exception, legislative changes in the last two decades tend to reduce government's power of eminent domain. Correspondingly, the rights of both individual and collective landowners *vis á vis* the state have been strengthened. In particular, criteria for compensations tend to stabilize at market values, and authorities are subject to more stringent procedures. Interestingly, this trend does not include the definition of “public use” or “public purpose.” In this respect, debates within the U.S.A. over this issue seem rather exceptional, as we will see.

The general trend towards a reduction of the power of eminent domain is so widespread, that it is worth mentioning the only example we have found in which legal developments seem to take a different path. That is the case of the South African Constitution of 1996 which, according to Southwood, recognizes a wide concept of “public interest”, gives considerable discretionary power to the government to pay ‘just and equitable compensation’ (i.e. market value being just one of the elements to be taken into account), and departs from a previous regime of immediate payment of compensation, to a system in which “the Court is given a discretion to decide on the timing and manner of the payment” (Southwood, 2000). Regardless the legal battles that, not surprisingly, are taking place around the interpretation of the constitutional text, it is an interesting case for its rarity. Probably, the explanation lies in the fact that South Africa is only beginning a cycle that

other countries concluded years ago: the redistribution of land as part of an agrarian reform.

Eminent domain law is changing in two ways: Directly, through legislation, judicial rulings or international treaties, and indirectly, through the wider path of land tenure reform. *Direct* changes are responses to the way governments are using their eminent domain power. By means of either legislative or judicial activity, rules are enacted in order to re-define that power. Sometimes, legislative changes are simply ‘followed’ by courts, but there are cases in which the courts make decisions that run against legislative or administrative rules, e.g. when they consider those rules to be unconstitutional.

Another way of changing in a direct way the rules on expropriation is through international law, which in turn may take different forms. Free trade agreements usually imply the commitment of the concerned states to respect property rights of investors from the other countries. Guarantees against unfair expropriations are an essential element here. Noteworthy, the first conflict under the North America Free Trade Agreement was between a U.S.A. corporation (Metalclad) and Mexico; an environmental conflict that transformed itself into an eminent domain international legal case. The main problem with these developments is that, even if foreign investors have the same substantive protection as nationals regarding the protection of property rights, they are given additional procedures to defend those rights. As the Metalclad case has made clear, arbitration panels, available only to foreign investors, tend to show a particular bias towards economic interests, a bias that national courts will not necessarily share when they consider conflicts over expropriations carried out by government at the expense of nationals. Under unequal conditions of access to justice this difference is aggravated. So, in countries with free trade agreements foreign corporations can end with a privileged protection against expropriations, compared to nationals (especially the poor) of those countries.

Other changes in eminent domain law come from human rights law. Several European countries have been forced to change expropriation procedures as a result of resolutions of the European Court of Human Rights. It is important to stress that such restrictions are far from being a “re-foundation” of expropriation as a legal institution. Rather, they mean there is a supra national instance that has contributed to reduce the abusive use of eminent domain powers.

There is also an *indirect* way of transforming the legal status of eminent domain: tenure reform, a process that is taking place in many parts of the world. To the extent it creates new property rights over land, tenure reform re-defines the conditions in which state authorities may take that land. This increases people’s security and at the same time means higher costs for government projects. If under conditions of weak land rights the relocation of populations for urban or infrastructure projects may be seen as a violation of (frequently ill defined) human rights, the same relocation, after tenure reform, has to face much more clearly defined *property* rights. This does not mean to assert that any land reform will produce equal benefits for all parties. What we try to stress here is only that tenure reforms constitute an indirect way in which the legal status of expropriation is transformed.

Clearly, such reforms are taking place in a wide variety of contexts, and it is not easy to establish a clear classification: former communist countries have “re-founded” the institution of property; many developing countries are not only changing economic regimes where state land ownership used to prevail, but they are also dealing with land questions

closely related to cultural identities; in turn, the issue of aboriginal rights appears with particular intensity in developed countries (Australia, New Zealand, Canada and the U.S.A.).

Land tenure reform is more than just a technical process; it has a foundational character. This is particularly relevant when it is associated with the recognition of aboriginal rights. In many countries this is a relatively recent process, and therefore it is unusual that expropriation appears as an issue. That is, debates are so focused in how to ‘give’ rights to certain groups, that few people think about how to ‘take’ those rights away from them if and when that becomes necessary. The strong symbolic value that is attached to certain landscapes adds extra difficulties for the use of eminent domain powers.

In the following section we present a scheme to cope with the diversity of situations in which changes are being introduced to the legal status of expropriation, but there can be no doubt that there is a general trend to restrict (rather than to expand) the power of eminent domain. Before we consider the mayor forces behind this trend, it is important to point at still another source of complexity: the fact that there is not a linear relation between law and policy. Whereas in many cases the law is a vehicle for the institutionalization of urban and development policies, legal developments can also express interests and concerns that are not necessarily those of land policy makers. The legal system imposes limits to policies because it is an institutional space in which conflicts between policies and other concerns (such as human rights, environmental issues, and national security) must be processed.

1.4. Forces behind major trends

Changes in policies and legal rules regarding eminent domain for urban and infrastructure projects respond to five driving forces: mounting social resistance, changing land tenure patterns, growing independence of judiciaries, changes in public opinion, and changes in the international context. As in almost any other social phenomena, those forces can operate independently of one another or in a combined way. Again, the combination varies across countries.

Social resistance. Social discontent with the use of eminent domain power is probably the mayor driving force behind the trends we have referred to. Obviously its impact will depend on the level of mobilization and on the prevailing political conditions, the analysis of which is beyond the scope of this paper. Despite the fact that the issue that prompts social mobilization is always the same, i. e. the “taking” of someone’s property by a government agency, motivations can be varied. In the developing world populations displaced by government projects may mobilize for a better compensation, but sometimes they resist for cultural reasons. No compensation will be enough when it comes to places that are considered irreplaceable – graveyards are the most obvious example.

Likewise, in industrialized countries people may oppose the compensation offered, but in other cases they can also contest the purpose for which property is being taken – as in the famous Kelo case. Certainly, the ideological foundations of the property rights movement in the U.S.A. are very different from those of the international campaign against forced evictions and for housing rights, even if they may converge in the same point.

There is one element that gives an additional strength to social resistance against expropriations, even if it has nothing to do with the interests of property owners. Many people mobilize against projects not because of the expropriation, but against the project itself. It is no news that there is a growing dissatisfaction with very idea of “development” that is represented by structures such as dams, highways, airports, and shopping malls. Even when development initiatives meet strict environmental requirements, the cultural connotations of certain projects will remain a source of social protest and this will add to the complexities of the use of eminent domain power.

Changing patterns of land holding. Property rights are important not only as cultural representations. Their relevance depends on more basic (i.e. structural) facts, such as land scarcity. This may sound strange for societies in which the land question has been settled for centuries, as in Western Europe, but it is important in societies where social practices like pastoralism are still part of the agenda. In some African countries, land became a more pressing issue only in postcolonial times as a result of wider demographic changes and new land use patterns (Lenz, 2006, Platteau, 1992). We do not intend to examine this question in any depth; this is only to point out that in the study of the social impact of expropriations one has to consider a wider view of the relation between society and territory. Thus it should be no surprise that government interventions upon landownership face more serious resistance in a context of growing land scarcity.

Interestingly, some researchers on land law issues are beginning to be attracted by more complex accounts of the society-territory relation, through the study of time-space compression as a central feature of contemporary societies (Woodman, et. al., 2004). But we can put it in simple terms: Land holding patterns should be recognized as a driving force (or at least as a backdrop) behind all developments in the realm of land policies and laws – eminent domain included.

Independent judiciaries. Legislation protecting property holders from arbitrary expropriation is useless without an independent judiciary that checks government’s actions. In the last two decades, many countries have undergone political and institutional changes that include a growing autonomy of the judiciary. Although this can be overrated by discourses of “transition to democracy” that tend to depict all previous regimes as outright authoritarian, there is no doubt that judicial activism is a growing phenomenon, and this has opened new spaces for the defense of those affected by expropriations. Often this means a long learning curve for civil servants who had grew accustomed to arbitrary practices.

Now a strong judiciary does not necessarily mean greater restrictions to the power of eminent domain, as the Kelo case in the U.S.A. clearly illustrates: there the Supreme Court made an act of deference to the legislative branch, by ruling that expropriations of land that is then transferred to private persons for development purposes are not unconstitutional, as long as state legislations provide for it. The property rights movement has been fighting a battle against the doctrine in Kelo, precisely because it allows restrictions on property rights, not on the government’s power of eminent domain.

Greater role of public opinion. The role of public opinion has not been explicitly recognized by the literature on eminent domain. However, at least in the two cases we have at hand, i.e. Mexico and the U.S.A., it is obvious that trends in the use of eminent domain are highly influenced by public opinion. Obviously, from a technocratic point of view long public debates imply unnecessary delays and the risk of distorting the “real” meaning of

projects. And it is true that in many cases manipulation and oversimplification in these debates can be the same as in political campaigns. In fact, they may even take place at the same time and with the same rules: During the last general election in the U.S.A. on November 2006 citizens of eleven states voted on “anti-Kelo property-rights initiatives.”

Far from attempting a normative evaluation of this subject here, the point is that the strengthening of public opinion in many countries has been an additional force behind the decrease in the use of eminent domain powers in those countries. At any event it is a force that follows its own logic. Surely, the public sphere can be seen as the space of enlightened communication, although a more skeptical view will see in it social and political actors fighting from different positions over eminent domain and using prevailing cultural codes in order to advance their own views and interests. In particular, different opinions on the idea of economic development as embodied in infrastructure and urban projects will concur in the public space. Because there is not a pre-given recipe of the outcome of these processes, this issue should be part of the research agenda if one is to understand the whole spectrum of social conditions that shape expropriation practices.

Changing international context. Last but not least, the international context plays a mayor role in the adaptation of policies and laws regarding expropriation. Free trade agreements create special rules for investors, international campaigns may force governments to adopt certain policies, and of course the web increases the diffusion of legal and political ideas about eminent domain. The question of whether there is a global convergence or not in property regimes has to do with this issue (Jacobs, 2006, Woodman et. al. 2004). We think that in order to tackle that question it is important to recognize that globalization is not a homogeneous set of forces that imposes itself upon all countries in the same way. Rather, national states are subject to different international contexts, and they respond differently to them. In the following section we propose a classification of such contexts.

2. Understanding legal issues in context

Not surprisingly, when seen from a “world perspective,” the field of eminent domain appears as an extremely heterogeneous universe. In order to explore its diversity we suggest considering the different contexts in which issues are debated. Our idea of “context” includes two aspects. First, it refers to the institutional setting on which eminent domain is being discussed – i.e. the various law-making agencies of national or sub-national governments, NGOs, the WB, the UN system, and so on. The second aspect refers to the substantive issues, that is, the questions around which eminent domain is being discussed (human rights, economic development, social justice, and so on). By looking at the context in which eminent domain is debated, we can explore the positions that are being advanced by different actors. In this way, we can reconstruct the process behind developments in policy and law. More importantly, we can tackle the question of whether there are signs of convergence at international level in this subject. Thus we suggest that eminent domain law and policy are being debated in four main contexts:

- As a constitutional issue, in the context of the national state, where the balance between public and private interests is being discussed.
- In relation to economic development, within organizations and agencies as the World Bank, the IMF and USAID, where the debate is centered around the role of

tenure systems in economic development and around the social impact of expropriations for infrastructure projects.

- As a human right issue, within a great variety of contexts, such as the UN system, NGOs and the European Court of Human Rights.
- In relation to the protection of foreign investors, within free trade agreements.

Contexts of Initiatives on Eminent Domain

Issues	Constitutional issues	Economic development	Housing as a human right	Protection of foreign investors
Institutional contexts				
The nation state	China, the U.S.A.		India	
Development agencies (WB. IMF)		Africa, Asia		
The UN System.			India, South Africa	
NGOs...				
Free trade agreements.				North America

It must be stressed that these are no more than ideal types. All changes in eminent domain law are processed through national or sub-national (legislative, administrative or judiciary) mechanisms. And at the same time many of them are part of an international debate (maybe in more than one institutional context). On the one hand, there are only a small handful of countries in which there is not an influence from an international context, or that influence is less strong (the U.S.A, China, Brazil...). On the other hand, the international contexts in which most countries are inserted are extremely varied. The intention of our typology is to capture that diversity.

Pointing at these contexts does not mean to affirm a causal nexus. Changes in policy, like most social phenomena, are multi-causal. Paying attention to those contexts is only a road map to explore the way ideas and initiatives are processed in different contexts and, in particular, whether there is convergence or not at global level. In what follows we examine the main issues that constitute the law of eminent domains.

2.1. The Concept of Public Interest

One of the key issues in discussing expropriation is its justification. The most pervasive idea is that the individual interest of property owners must give way to the more general interests of society. Virtually every constitution that recognizes private property at the same

time determines that the state can take property from individuals, under two conditions: Paying just compensation and with the purpose of satisfying some general interest, expressed through terms like “public use”, “public purpose” “*utilité publique*” “*utilidad pública*,” and so on. In order to avoid any bias towards a particular legal tradition, we will use the phrase *public interest* to refer to this kind of justification. The public interest clause is then an important limit to the exercise of the eminent domain power.

Today most countries acknowledge that the legislative and the executive branches have a wide discretionary power to decide when there is a public interest that validates an expropriation. It is hard to find an example of the Judiciary declaring legislation unconstitutional because it does not respect the public interest clause. The same can be said about judicial decisions regarding the way the executive power exerts its eminent domain power. There is a strong assumption, especially in democratic countries, that the executive power will act reasonably when deciding what constitutes public interest.

As an exception to this general trend, an intense debate has emerged in the U.S.A. regarding the definition of what the Constitution means by “public use,” after the Supreme Court decided the now famous Kelo case in May 2005. The city of New London prepared a plan for economic revitalization of the city. In order to fulfill this plan the local authority expropriated land in an urban area (that was not completely blighted), for an ambitious project that included the participation of private investors. The question was whether it was legitimate to take land from private individuals in order to transfer it to private entities –assuming that new investments would bring an economic revival of the area. Relying on its long-standing precedents, the Court upheld the decision by the city, based on the principle of legislative deference. It was not the first time that the Supreme Court had decided that the economic development was a valid use of the power of eminent domain.

In the rest of the world, the concept of public interest can be defined in a number of ways and it is interesting to illustrate this variety. For example, most constitutions in the Commonwealth tradition require that property subject to compulsory purchase be used for “a public purpose or a public use.” Some Constitutions establish an elaborate catalogue of provisions about what constitutes public interest. Others leave this task to the legislative branch.

On the other hand, in Japan we find a very limited scope of what constitutes a public interest. The Law of Expropriation contains a precise list of the kind of projects that justify the use of expropriation. The interpretation of this statute is limitative in nature, although this does not seem to be a problem for the academic literature. Malaysia is one of the few countries where the literature documents a strong debate and even social unrest due to an extremely wide definition of public interest. The cause of this dissatisfaction apparently is the abuse in discretionary power that the government enjoys in the use of expropriation for economic development. In the case of New Zealand there is a complete revision by the judiciary of the need to acquire the property subject to expropriation. Finally, in Africa we have not found discussions around this issue. As in many countries, who gets compensation for expropriation is a much greater source of concern.

In any case the purpose of a definition of public interest is to reduce the margin for an arbitrary use of this instrument, but most jurists around the world do not see the variations in the definition of public interest as a fundamental problem. What the literature seems to suggest is that the substantive justification of expropriation, through the concept of public

use, public purpose or another equivalent, is not an issue that may be driving eminent domain to a crisis, the U.S.A. being an exception with the anti-Kelo movement. In terms of the context in which this issue is being discussed, our hypothesis is that this is dealt with in the context of the institutions of national states, with very little external influence. If there is any ‘convergence’ in this respect it has nothing to do with developments in specific international contexts.

2.2. Compensation

The second key issue in expropriation law refers to the compensation that is to be awarded to the affected owners. It can be considered as the most pressing issue in takings law around the world and it involves two fundamental questions: how to determine the amount of compensation to be paid, and who is entitled to obtain one.

In turn, the problem of determining the amount of compensations can be analyzed at two levels. On one hand we have the debate around the general criteria for fixing it: commercial value, fair price value, fiscal value, and so on. On the other hand there is a more technical discussion around methods of valuation. The latter does not have an effect on the principles of eminent domain, but the lack of technical competence of civil servants in charge should not be underestimated, as it may exacerbate conflicts around expropriations.

As to the general criteria for fixing the compensation, there is a clear convergence in most countries towards market value. While this does not pose a mayor problem when property rights are clear, it represents enormous challenges in situations where it is unclear who owns what or when the social cost of relocation outweighs the market value of the land. Most studies on population resettlement do not recognize the relevance of this issue and there are even suggestions that the concept of compensation is not useful to solve the problems that huge projects generate.

No doubt, the social cost of the displacement of people in many countries due to the use of eminent domain has been enormous, but part of the problem is that compensations have been too low. This does not mean to deny other (more qualitative or procedural) questions, such as the need to establish mechanisms of social consultation and the obligation of respecting due process rules. But there are projects that will have to go on, even without the consent of those who own the land. And in order to offset the burden that expropriation imposes on them, it is difficult to think of a different solution than economic compensation – even if it is accompanied by the most “inclusive” social policies.

The second issue that affects compensation is the recognition of tenure rights to groups that had not been considered as property holders before. Herders, tenants, laborers and other social categories become (rightly, we must insist) entitled to be compensated for the loss of their possessions.

The point is that for those two reasons compensations tend to be (or will have to be) much higher than it has been in the past. When this makes projects unviable from a financial point of view, it is in itself a good reason to abandon them. But apart from financial considerations, there are also legal limits to the option of increasing compensations. Procurement legislation usually forbids the acquisition of assets by government agencies at

prices above market levels. Clearly, there is a public interest in keeping those acquisitions at reasonable levels. This does not mean that it is impossible to reach a fair intermediate solution to this question; it means that there is a limit beyond which the use of expropriation becomes seriously questionable.

Not surprisingly, issues about compensation are treated differently in different international contexts. Through free trade agreement, states guarantee fair compensation to foreign investors, although valuation techniques are seldom agreed upon. At the other extreme, international campaigns for housing rights tend to ignore the issue of compensation. Now beyond the impact that such international developments may have on the practice expropriation, there are many cases in which the national dynamic is much more important than any international context. Exorbitant compensations awarded by judges in Mexico and Brazil can hardly be related to international processes, as they result from specific political and legal developments at national (and sometimes at local) level. It is here that the convergence hypothesis seems less plausible.

2.3. Housing Rights and Population Resettlement

The idea of housing rights has the potential of changing legal doctrines on expropriation in a fundamental way, to the extent it a distinction between two types of expropriations: those which affect people in their ability to meet a basic need (housing), on the one hand, and those that affect individuals or legal entities for whom property is only an asset. In spite of that potential, the idea of housing rights has not yet had an impact on the law of expropriation.

With a few exceptions, the idea of housing rights has had its greater influence through international campaigns in cases of egregious evictions. It is worth to highlight one aspect of the dominant discourse in this specific international context (a space created by UN organizations and NGOs), in contrast with the discourse that prevails in economic development agencies. We have already noted the difference between these two settings: in one context, the dominant idea is housing as a human right – an idea of human dignity. In the other context what dominates is a pragmatic theory of economic development based on the importance of property rights.

Despite the fact that both discourses have huge potential consequences for a redefinition of the law of eminent domain, they have so far avoided an explicit recognition of such consequences. On the one hand, housing rights discourse entails a systematic condemnation of evictions, but it rarely recognizes situations in which evictions have some form of legal validity. This is a serious limit to housing right as a doctrine, as it will be hard to accommodate within the ensemble of values that a legal system is meant to protect –including other human rights that may collide with housing rights in certain situations, such as environmental rights.

On the other hand, discourses on resettlement risk have been extremely useful in documenting the social costs of urban and infrastructure projects, but they have not recognized the consequences of that critique for eminent domain law and property law in general – as we have seen in the issue of compensation. Surely, these two discourses correspond to two different and in many ways opposed legal cultures – maybe two different worldviews. By ignoring each other, these approaches follow the opposite route to

convergence: Rather, they are the most notorious *divergence* in the field of eminent domain nowadays.

2.4. Expropriation of different components of the bundle of rights

Here we will try to point at a potential convergence between two apparently unrelated issues: Regulatory takings as a traditional problem in eminent domain law, on the one hand, and the relevance of the doctrine of bundle of rights for the recognition of compensation rights for certain categories of users of the land that have been defined as non-property owners, such as herders and agricultural laborers, on the other.

The issue of regulatory takings is probably the most popular topic of discussion in the law of eminent domain. In almost every developed country there is an ongoing discussion about regulation of the use of land that imposes so severe restrictions that should be considered as an expropriation and therefore should be compensated. Following the notion that property is a bundle of rights, the question is how many of the sticks in that bundle (or which of them) can be taken by the state in the name of a public interest without generating a right to be compensated for the loss.

Noteworthy, nobody talks about “regulatory givings,” i.e. the increase in property values that generous land regulations generate; a point that should not be discarded as eccentric. In some European legal systems, most notably in Spain, the dominant legal doctrine holds that the extent of property rights is defined by urban plans. In particular, development rights are not inherent to the ownership of land; they are the result of a public decision expressed in a development plan.

In the United States the problem of regulatory takings has been discussed since 1887 in the *Mugler v. Kansas* case (Gordon, 2000). After all this years, we still cannot find a generally accepted theory on what constitutes a regulatory taking. And if we analyze the decisions of the U.S. Supreme Court we will find enormous variations over time.

In Europe variations are also great. Even in legal systems that recognize the doctrine that social obligations are inherent to private property, like Germany and Switzerland, legislation recognizes the idea of regulatory takings through the concept of “material expropriation” (Kushner, 2003). Thus there are planning restrictions that create the obligation for the government to compensate the loss. At the other extreme, French jurisprudence has for many decades admitted that land use restrictions do not give a right to compensation. It is remarkable that this issue has not entered in the agenda of the European Court of Human Rights, which has been the main source for the restriction of eminent domain powers in Europe.

In any case, there is an obvious contrast between Europe and the U.S.A. regarding regulatory takings: In Europe, legal developments are strongly conditioned by *supranational* instances, whereas in the U.S.A. the future of regulatory takings will depend on *sub-national* developments, as State legislatures are the loci of legal change. In both sides of the Atlantic, the planning system has not been paralyzed by those restrictions, as many authors fear.

Now there is an interesting link that can be established between the doctrine behind regulatory takings and expropriations in many parts of the developing world. In many African countries, for example, the use of eminent domain is depriving people who are not recognized as owners of the land, of their means of subsistence. Tenants, herders and agricultural laborers are amongst those who are paying the highest social cost of expropriation because they are not recognized as holding any property right at all. An extension of the doctrine of the “bundle of rights” might open the way for the recognition of a variety of interests over the same piece of land, exactly the same way as in most developed countries tenants are entitled to compensation in case of an expropriation. This is a potential convergence of legal ideas to one and the same goal: to give protection from the use of eminent domain powers to those who are more vulnerable to it.

3. Policy implications

There are clear indications of growing difficulties in using the power of eminent domain the way it has been used it traditionally. Legal restrictions, social resistance and rising costs are the main obstacles. The most important policy implication of this trend can be stated as the need to reconsider the use of eminent domain as an instrument of land policy. However, *reconsidering expropriation does not mean discarding it altogether*. Rather, governments need to *re-define* the conditions under which they can expect that expropriations can be successful – i.e. efficient, equitable and socially accepted. In many cases, they will be more expensive, they will imply longer consultation proceedings and their success will depend on issues that have nothing to do with property rights – such as environmental concerns about certain projects. This may result in a reduction in the number of expropriations, but it is difficult to envisage a scenario in which governments are completely deprived of the power of eminent domain, particularly as urban and infrastructure needs become more acute.

We have shown a wide variety of issues that should be taken into account as eminent domain laws and policies are reconsidered. Beyond such diversity, it is important to bear in mind the two extreme kinds of social costs that they can produce: on the one hand, expropriations that involve the resettlement of a population can bring about high costs for those affected. On the other, distortions in the operation of judicial institutions (whether it is due to corruption, incompetence or an ill conceived legal framework) can impose high costs for society as a whole to the extent they impose prohibitive costs to the use of eminent domain powers and hence to the satisfaction of public needs.

Thus far, debates on eminent domain have taken place in contexts that do not recognize the whole array of issues at stake: Housing rights campaigns, with all their moral force, have failed to acknowledge the economic implications of policy options; development theories that inspire land tenure reforms in many countries ignore the dimension of human rights; free trade agreements focus only in the interests of investors. If land policies are to be based on solid foundations, all those dimensions must be considered. Expropriations should be seen not only as opportunistic actions to which governments can resort, they must be part and parcel of both property regimes and land policies. This is particularly important in countries that are experiencing a transition from state – ownership of land to private property. As Vincent Renard wrote almost fifteen years ago for an Eastern European audience:

“It may seem a paradox, for countries where state landownership is generalized, to mention the power of eminent domain. However, the lack of legislation in this respect can create great difficulties as privatization becomes generalized. It will not take long before new property owners... see the benefits of holding land, while the community does not have the right to promote the necessary changes for its proper use...”

Now apart from a reconstruction of expropriation as a policy instrument and as a legal institution based on profound analyses, it is urgent to start on a more simple aspect: The development of information systems that allow us to observe the way eminent domain powers are actually used and the social impact they produce. As it happens in other fields of public policies, access to public information has improved in many countries. But transparency is useless if there is no information to look at.

4. Proposals for future research

For future research on land expropriation for urban and infrastructure we propose three avenues:

First, there is a great need for more empirical analyses, as the field is dominated by legal studies. This does not mean to underestimate the relevance of the law. Rather, if we are to understand what the law really means for society in this realm, it is important to develop more studies about the way in which eminent domain it is used by governments, about the way it is combined with other instruments and, above all, about its social consequences. This must include a wide array of research methods, from the construction of data bases to case studies and ethnographic approximations.

Second, expropriation should be studied as one aspect of the institution of property. Otherwise its moral, economic and philosophic implications cannot be discussed. As Michael Mortimore has said, changes in property regimes around the world during the last decades have been so profound, that we can take this time as a “breathing space” to reflect about their many implications (Mortimore, 1997).

Third, there are many specific questions one can envision about the expropriation of land for urban and infrastructure projects. But their relevance will always depend on local or national priorities. If there is one common question for all researches in this field, that is the question of convergence. Our own suggestion is that convergence cannot be studied as some sort of “global” (homogeneous) phenomenon. Instead we think that there are different contexts in which policies and laws are processed. Different issues are discussed in different institutional settings. Following developments in all those contexts is important if we want to understand where our laws and policies come from. This is not a purely academic question, as there are relevant implications of a decline in the use of eminent domain when more efficient mechanisms for the satisfaction of public needs are put into practice, or when the vulnerable sectors of society are enjoying a broader legal protection. Surely the same trend has a different meaning when it is the result of an expansion of the power of private owners who are able to impose their interests on society as a whole—particularly when judges and other public officials are not able to explain what is happening.

BIBLIOGRAPHY

GENERAL

- Alexander, Gregory. 2006. *The Global Debate over Constitutional Property: Lessons from Americans Takings Jurisprudence*. Chicago: The University of Chicago Press.
- Baharoglu Deniz. 2002. *World Bank experience in Land Management and the Debate on Tenure Security*. Washington: The World Bank. Draft.
- Cernea, Michael M. 2003 "For a new economics of resettlement: A sociological critique of the compensation principle" *International Social Science Journal*. Paris. Vol. 55 Iss. 1. Page. 37-36.
- Cernea, Michael and Christopher McDowell (eds). 2000. *Risks and Reconstruction. Experience of Resettles and Refugees*. Washington: The World Bank.
- Cernea, Michael. 1993. *The risks and reconstruction model for resettling displaced populations*. World Development. Oxford: Oct 1997. Vol.25, Iss. 10
- Cernea, Michael. 1993. *The Urban Environment and Population Relocation*. Washington: The World Bank / World Bank Discussion Papers Series 152.
- CNUEH-Habitat, 1985, *Directives pour l'acquisition de terrains à usage public*, Rapport, Nairobi, 53 p.
- Crépeau, François, et. A. (eds.). 2003. *Forced Migrations and Global Processes. A View from Forced Migration Studies*. Oxford: Lexington Books.
- Deininger, Klaus. 2003. *Land Policies for Growth and Policy Reduction*. Washington: The World Bank.
- Durand-Lasserve, Alain and Lauren Royston. 2002. *Holding their Ground. Secure Land Tenure for the Urban Poor in Developing Countries*. London: Earthscan.
- Fromont, Michel. 1978. *Les instruments juridiques de la politique foncière des villes. Etudes comparatives portant sur quatorze pays occidentaux*. Brussels : Etablissements Emile Bruylant.
- Hackenberg, Robert. 1999. "Advancing Applied Anthropology" in *Human Organization*. Washington: Winter Vol. 58, Iss. 4; pp. 439 ff.
- Joseph, Gilbert and Daniel Nujent. 1994. *Everyday Forms of State Formation*. Durham and London: Durham University Press.
- Mallon, Florencia. 1995. *Peasant and Nation. The Making of Postcolonial Mexico and Peru*. Berkeley: University of California Press.
- Mattei, Ugo. (2000) *Basic Principles of Property Law: A Comparative Legal and Economic Introduction*. Westport, CT: Greenwood Press.
- Minor, Michael S. 2006. "The Demise of Expropriation as an Instrument of LDC Policy, 1980-1992." *Journal of International Business Studies* 25.1 (1994): 177+. Questia. 1 Aug.
- OECD. 1992. *Les marchés fonciers urbains. Quelles politiques pour les années 1990?* Paris: Organization for Economic Cooperation and Development.
- Scott, James. 1998. *Seeing like a State. How Certain Schemes to Improve the Human Condition have Failed*. New Haven: Yale University Press.
- Van Meijl, Toon and Franz von Benda-Beckman. 1999. *Property Rights and Economic Development. Land and Natural Resources in Southeast Asia and Oceania*. London: Kegan Paul International.

COMPARATIVE / REGIONAL

- Allen, Tom. 2000. *The Right to Property in Commonwealth Constitutions*. Cambridge, England: Cambridge University Press.
<http://www.questia.com/PM.qst?a=o&d=105456322>.
- Azuela, Antonio, Emilio Duahu and Enrique Ortiz (Eds.) 1998. *Evictions and the Right to Housing. Experience from Canada, Chile, the Dominican Republic, South Africa and South Korea*. Ottawa: International Development Research Center.
- Durand-Lasserve, A. and Laureen Royston (Eds.). 2002. *Holding their Ground: Secure Land Tenure for the Poor in Developing Countries*. London: Earthscan.
- Kotata, Tsuyoshi and David Callies, (Eds.). 2002. *Taking Land: Compulsory Purchase and Regulation in Asian-Pacific Countries*. Honolulu: University of Hawai'i Press.
- Lowenfeld, Andreas F. (editor) (1971) *Expropriation in the Americas: A Comparative Law Study*. New York: Dunellen
- Mattei, Ugo. 2000. *Basic Principles of Property Law: A Comparative Legal and Economic Introduction*. Westport, CT: Greenwood Press.
<http://www.questia.com/PM.qst?a=o&d=22880213>.

AFRICA

- Baroin, C., “ Droit foncier et aménagement agricole : le cas des sources du Borkou occidental ”, in : Jungrathmayr, H. (ed.); Barreteau, Daniel (ed.); Seibert, U. (ed.), *L'homme et l'eau dans le bassin du lac Tchad = Man and water in the lake Chad basin*, ORSTOM, Paris, 1997, p. 453-468
- Benjaminsen, Tor A., and Christian Lund (Eds.). 2003. *Securing Land Rights in Africa*. London/Portland: Frank Cass.}
- Boutillier, Jean-Louis, “ Irrigation et problématique foncière dans la vallée du Sénégal ”, in : Lombart, Jacques (ed.), *Les dynamiques internes de la transformation sociale, Cahiers des Sciences Humaines*, 1989, Vol. 25, No 4, p. 469-488
- Cernea, Michael. 1997. *African Involuntary Population Resettlement in Global Context*. Washington: The World Bank / Environmental Department Papers. Social Assessment Series 045.
- Chauveau, Jean-Pierre. 2002. *Une lecture sociologique de la loi ivoirienne de 1998 sur le domaine foncier*, IRD, Montpellier. (Document de Travail de l'Unité de Recherche 095 (FRA), No 6)
- Chaveau, Jean Pierre and Paul Mathieu. 1998. “ Dynamiques et enjeux des conflits fonciers ”, in *Quelles politiques foncières pour l'Afrique rurale?: réconcilier pratiques, légitimité et légalité* Lavigne-Delville, Philippe et. al. (d.). Paris: Karthala
- Chauveau, Jean-Pierre; Lavigne-Delville, P.. 2002. “ Quelles politiques foncières intermédiaires en Afrique rurale francophone ? ”, in *Comment réduire pauvreté et inégalité*: Levy, M. (dir.); Barbedette, L.; Berthome, J.; Brunet-Jailly, Joseph; Chauveau, Jean-Pierre; Gentil, D.; Lange, Marie-France; Lavigne-Delville, P.; Le Bris, Emile; Marniesse, S.; Paris, P.; Sauvat, V. (collab.), , IRD; Karthala, Paris p. 211-239
- Chauveau, Jean-Pierre, M. Le Pape; Olivier De Sardan. 2001. “ La pluralité des normes et leurs dynamiques en Afrique : implications pour les politiques publiques ”, in :

- Winter, Gérard (ed.) *Inégalités et politiques publiques en Afrique : pluralité des normes et jeux d'acteurs* Paris : IRD/Karthala.
- Chauveau, Jean-Pierre. 1997. "Jeu foncier, institutions d'accès à la ressource et usage de la ressource : une étude de cas dans le centre-ouest ivoirien" in *Le modèle ivoirien en questions : crises, ajustements, recompositions* CONTAMIN, Bernard and H. Memel-Fote, (eds.), Paris : Karthala / Orstom.
- Crousse, Bernard, Paul Mathieu, Sidi M. Seck, Nicolas Bodart (eds.). 1991. *La Vallée du fleuve Sénégal : évaluations et perspectives d'une décennie d'aménagements (1980-1990)* Paris : Karthala.
- Crousse, Bernard, "Logique traditionnelle et logique d'Etat : conflits de pratiques et de stratégies foncières dans le projet d'aménagement de M'Bagne en Mauritanie", in *Espaces disputés en Afrique Noire : pratiques foncières locales* : Crousse, Bernard (ed.); Le Bris, Emile (ed.); Le Roy, Etienne (ed.), , Karthala, Paris, 1986, p. 199-215.
- Durand-Lasserve, A. 2003. "Current Changes in Customary/traditional Land Delivery Systems in African Cities. Are neo- customary processes an effective alternative to formal systems?" Paper Presented at the World Bank Urban Research Symposium Washington, DC December 15-17. INTERNET: <http://www.worldbank.org/urban/symposium2003/docs/papers/durand-lasserve.pdf>
- Elloumi M. (dir.), Jouve A.M. (dir.), 2003 *Bouleversements fonciers en Méditerranée : des agricultures sous le choc de l'urbanisation et des privatisations*, Paris: Karthala, 384 p.
- Giblin, James. "Land Tenure, Traditions of Thought about Land, and their Environmental Implications in Tanzania" in *Land, Property, and the Environment* ed. By. John F. Richards. Oakland, California: Institute for Contemporary Studies.
- Gruenais, Marc-Eric, 1986 "Territoires autochtones et mise en valeur des terres", in *Espaces disputés en Afrique Noire : pratiques foncières locales*: Crousse, Bernard (ed.); Le Bris, Emile (ed.); Le Roy, Etienne (ed.), , Karthala, Paris, p. 283-298
- Hesseling, Gerti and Paul Mathieu. 1986 "Stratégies de l'État et des populations par rapport à l'espace" in *Espaces disputés en Afrique Noire : pratiques foncières locales*: Crousse, Bernard, Emile Le Bris, and Etienne Le Roy (Eds.) Paris : Karthala (Hommes et Sociétés).
- Huggins, Chris, and Jenny Clover (Eds.) 2005. *From the Ground Up: Land Rights, Conflict and Peace in Sub-Saharan Africa*. Pretoria: Institute for Security Studies.
- Koenig, Dolores and Tieman Diarra. 1998. "Les enjeux de la politique locale dans la réinstallation: stratégies foncières des populations réinstallées et hôtes dans la zone du barrage de Manantali, Mali" *Autrepart* (5).
- Kuba, Richard, and Carola Lentz (Eds.) 2006. *Land and the Politics of Belonging in West Africa*. Leiden/Boston.
- Brill. Kotey, Nil Ashie, 2002. "Compulsory Acquisition of Land in Ghana: Does the 1992 Constitution Opens New Vistas ?" in *The Dynamics of Resource Tenure in West Africa*, Toulmin, Camilla, Philippe Lavigne-Delville, and Samba Traoré (Eds.). London: GRET / International Institute for Environment and Development.
- Lavigne-Delville, Philippe, Camilla Toulmin, Jean-Philippe Colin, Jean-Pierre Chauveau. 2001. *L'accès à la terre par les procédures de délégation foncière (Afrique de l'Ouest rurale): modalités, dynamiques et enjeux*, Paris : GRET.

- Lavigne-Delville, Philippe, Jacky, Etienne Le Roy 2000. *Pendre en compte les enjeux fonciers dans une démarche d'aménagement : stratégies foncières et bas-fonds au Sahel*. Paris: GRET.
- Lavigne-Delville, Philippe, Camilla Toulmin, Samba Traore, 2000. *Gérer le foncier rural en Afrique de l'Ouest : dynamiques foncières et interventions publiques* Paris / Saint-Louis (Sénégal): Karthala / URED.
- Lavigne-Delville, Philippe, J.P. Chauveau, J. Gastaldi, M. Kasser, E. Le Roy. 1998. *Quelles politiques foncières pour l'Afrique rurale?: réconcilier pratiques, légitimité et légalité*. Paris: Karthala.
- Leservoissier, O. 1999. " Les réfugiés "négro-mauritaniens" de la vallée du Sénégal ", in Lassailly-Jacob, V, Jean-Yves Marchal, André Quesnel, *Déplacés et réfugiés : la mobilité sous contrainte*, Paris: IRD. p. 283-301.
- Levine, Richard, and Daniel Weiner. 1997. "No More Tears..." *Struggles for Land in Mpumalanga, South Africa*. Trenton / Asmara: Africa World Press.
- Lenz, Carola. 2006. "Land Rights and the Politics of Belonging in Africa: An Introduction" in *Land and the Politics of Belonging in West Africa*. Kuba and Lenz (Eds.). Leiden/Boston: Brill.
- Lund, Christian. 2000. *African land tenure: Questioning Basic Assumptions*. London: International Institute for Environment and Development (Issue Paper No 100, Drylands Programme).
- Maganga, Faustin. 2003. "The Interplay Between Formal and Informal Systems of Managing Resource Conflicts Some Evidence from South Western Tanzania", in *Securing Land Rights in Africa*. Benjaminsen, Tor A., and Christian Lund (Eds.) London/Portland: Frank Cass.
- Maposa, Isaac. 1995. *Land Reform in Zimbabwe. An Inquiry into the Land Acquisition Act (1992) combined with A Case Study Analysis of the Resettlement Programme*. Catholic Commission for Justice and Peace in Zimbabwe.
- Mathieu, Paul; Niasse, Madiodio; Vincke, Pierre Pol, 1986. " Aménagements hydro-agricoles, concurrence pour l'espace et pratiques foncières locales dans la vallée du fleuve Sénégal : le cas de la zone du Lac de Guiers " in Crousse, Bernard, Emile Le Bris, Etienne Le Roy, (eds.) *Espaces disputés en Afrique Noire : pratiques foncières locales* Paris : Karthala.
- Moore, Donald S. 2005. *Suffering for Territory. Race, Place and Power in Zimbabwe*. Durham & London: Duke University Press.
- Mortimore, Michael. 1997. *History and evolution of land tenure and administration in West Africa*. London: International Institute for Environment and Development (Issue Paper No 71, Drylands Programme).
- Ndjovu, Cletus E. 2003. *Compulsory purchase in Tanzania: Bulldozing property rights* Kungliga Tekniska Hogskolan (Sweden).
- Platteau, Jean-Philippe. 1992. *Land reform and structural adjustment in sub-Saharan Africa: Controversies and guidelines*. Rome: FAO Economic and Social Development Paper 107.
- Quesnel, André, 2001 " Peuplement rural, dynamique agricole et régimes fonciers ", in Lery, A. (coord.); Vimard, Patrice (coord.), *Population et développement : les principaux enjeux cinq ans après la Conférence du Caire*, CEPED; LPE, Paris, Marseille.
- Sidibe, D.F., 1986, " Régime foncier et migrations : l'expérience de l'Aménagement des Vallées des Volta ", in : Crousse, Bernard (ed.); Le Bris, Emile (ed.); Le Roy,

- Etienne (ed.), *Espaces disputés en Afrique Noire : pratiques foncières locales*, Karthala, Paris (FRA).
- Southwood, M.D. 2000. *The Compulsory Acquisition of Rights by Expropriation, Way of Necessity, Prescription, Labour Tenancy and Restitution*. Durban: JUTA.
- Toulmin, Camilla, and Simon Pepper. 2000. *Land reform North and South*. London: International Institute for Environment and Development (Issue Paper No 96, Drylands Programme).
- Widner, Jennifer A. 2001. *Building the Rule of Law: Francis Nyalali and the Road to Judicial Independence in Africa*. New York: W.W. Norton & Company.
- Woodman, Gordon R., Ulrike Wanitzek, and Harald Sippel (Eds.). 2004. *Local Land Law and Globalization. A comparative study of peri-urban areas in Benin, Ghana and Tanzania*. Munster: Lit Verlag.

ASIA

- Bourdier Marc et Pelletier Philippe (coord.), 2000, *L'archipel accaparé : La question foncière au Japon*, Éditions de l'École de Hautes Études en Sciences Sociales, Paris, novembre.
- Leaf Michael, 1993, " Land rights for residential development in Jakarta, Indonesia: the colonial roots of contemporary urban dualism ", *International Journal of Urban Regional Research*, vol.17, n°4, December 1993, pp.477-491
- Tadasu Watari, 2005 " Définition de l'utilité publique : la "théorie du bilan" au Japon ", *Etudes foncières*, Paris, ADEF, no 117, sept.-oct. 2005.- pp. 34-38
- West Stephen H., 1984 "The Confiscation of Public Land in the Song Capital", *Journal of the American Oriental Society*, Vol. 104, No. 2 (Apr. - Jun.), pp. 321-325

CHINA

- Dowall, David E. 1993. "Establishing urban land markets in the People's Republic of China". *Journal of the American Planning Association*. Chicago: Spring 1993. Vol.59, Iss. 2;
- Fabre, Guilhem. 1988. "Découverte du marché foncier" *Etudes Foncières* 39.
- Guo Xiaolin. 2001. "Land expropriation and rural conflicts in China". *The China Quarterly*. London: Jun 2001, Iss. 166
- Hanan, G. Jacoby, Li Guo, and Scott Rozelle. 2002 "Hazards of expropriation: Tenure Insecurity and Investment in Rural China". *The American Economic Review*. December. Volume 92. No. 5
- Ho, Peter. (2005) *Institutions in Transition: Land Ownership, Property Rights, and Social Conflict in China*. Oxford, England: Oxford University Press
- Padovani, Florence. 2003. "Involuntary Resettlement in the Three Gorges Dam Area in the Perspective of Forced Migration Due to Hydraulic Planning in China" in *Forced Migrations and Global Processes. A View from Forced Migration Studies*. Crépeau, Francois, et. al. (eds). Oxford: Lexington Books.
- Pataud Celerier Philippe, 2004 " Shanghai sans toits ni lois ", *Le Monde Diplomatique*, Paris, March.

- Zweig David. 2004. "To the courts or to the barricades: can new political institutions manage rural conflict?" In *Chinese Society. Change, conflict and resistance*. 2nd Edition. London. RoutledgeCurzon
- Rozelle Scott, Li Guo 1998. "Village Leaders and Land Rights Formation in China". *The American Economic Review*. May 1998. Volume 88. No. 2
- Shui-Hung Luk, Shiu-Hung Luk (Editor), Joseph Whitney (Editor) *Megaproject: A Case Study of China's Three Gorges Project*.
- Yu Liu. 2005. "Village Voices". *Beijing Review*. Beijing. Vol. 48, Iss. 52
- Zhang Li, 2004. "Forced out of home: Property rights, civic activism, and the politics of relocation in urban China". *Urban Anthropology and Studies of Cultural Systems and World Economic Development*. Brockport. Summer 2004. Vol.33, Iss. 2/3/4

INDIA

- Banerjee, Banashree. 2002. "Security of Tenure in Indian Cities", in Durand-Lasserve, Alain and Lauren Royston. *Holding their Ground. Secure Land Tenure for the Urban Poor in Developing Countries*. London: Earthscan.
- Choudhary, Anshu. 2000. *Digest on Land Acquisition & Compensation Cases*. (1991-1999). Allahabad: Nasik Law House.
- Milbert, Isabelle. 1990. "Inde: dynamique urbaine et politiques foncières", *Etudes foncières*, Paris, ADEF, no 47, juin pp.47-54.
- Nayak, Ranjit. 2000. "Risks associated with Landlessness: An exploration Toward Socially Friendly Displacement and Resettlement" In *Risk and Reconstruction. Experience of Resettlers and Refugees*. Washington. The World Bank
- Varghese, M. P. 1999. *The Law of Land Acquisition and Compensation. A Criticism*. New Delhi: Phoenix Publishing House.
- Voluntary Organizations. 2000. *The Land Acquisition, Rehabilitation and Resettlement Bill (Draft by Voluntary Organisations)*. Dharwad: Samaj Parivartana Samudya.

TURKEY

- Türk, S Sence. 2004 "The applicability of urban land acquisition methods for the provision of serv..." *International Development Planning Review*, 26,2.

EUROPE

GENERAL

- Coban, Ali Riza. 2004. *Protection of Property Rights within the European Convention of Human Rights*. Burlington: Ashgate.
- Garner, J. F. 1975. *Compensation for Compulsory Purchase. A Comparative Study*. London: The United Kingdom National Committee of Comparative Law.
- Graëffly, Romain. 2006. "Le droit de l'expropriation dans l'Union Européenne: panorama d'une prérogative foncière locale" in *Études Foncières* 121, May-June, Pp. 24-29.
- Jacobs, Harvey. 2006. *The "taking" of Europe: Globalizing the American Ideal of Private Property?* Lincoln Institute of Land Policy Working Paper.

Kushner, James A. 2003. *Comparative Urban Planning Law. An Introduction to Urban Law in the United States through the Lens of Comparing the Experience of Other Nations*. Durham: Carolina Academic Press.

Moor, Pierre. 1978. "L'expropriation : Conditions d'utilisation et procédure" in Fromont, Michel. 1978. *Les instruments juridiques de la politique foncière des villes. Etudes comparatives portant sur quatorze pays occidentaux*. Brussels : Etablissements Emile Bruylant.

BELGIUM

Boucquey, Yves, 1979, "Droit belge : L'indemnisation des moins-values provoquées par un plan d'aménagement", *Etudes foncières*, Paris, ADEF, no 4, mars, p.1 et 11-13

Haumont, Francis, 2004, "L'urbanisme et l'aménagement du territoire en Belgique en 2002 et 2003" *Dauh* p.797-817.

FRANCE

Barles, Sabines. 2000 "La valeur du tréfonds." In *Etudes foncières*, Paris, ADEF, no 85, pp. 28-32

Barnier, Laurence. 2002. "Expropriés, osez réclamer un juste prix pour votre bien." In *Le Particulier*, no 927, sept.- pp.53-59

Bervas, Estelle, Lemee Guy. 2005 "Concessions (Les) d'aménagement : le retour." In *Etudes foncières*, Paris, ADEF, No 118, déc. pp. 18-20

Boisson, Jean-Pierre. 2005. *La maîtrise foncière : clé du développement rural*, Rapport du Conseil Économique et Social - Section de l'agriculture et de l'alimentation, 30 Mars, 131 p.

Bougeant, Pierre. 2001 "Méditerranée (La) sur la liste rouge", *Etudes foncières*, Paris, ADEF, no 91, mai-juin pp. 21-23

Bruneau, Louis. 1985. "Indemniser le bénéficiaire escompté ? Une nouvelle jurisprudence du Conseil d'Etat", *Etudes foncières*, Paris, ADEF, no 26, mars pp. 18-21

Bouyssou, Fernand. 2006. "L'hypertrophie des droits de préemption" in *Études Foncières*, 122, July-Agust.

Catalano, Francis. "Le rôle du juge de l'expropriation", *Etudes Foncières*, 76.

Cavaillé, Fabienne. 1999. *L'expérience de l'expropriation. Appropriation et expropriation de l'espace*. Paris: ADEF.

Collectif. 1992. *Outils fonciers mode d'emploi*, Paris, ADEF, (1992), 211 p.

Comby, Joseph, ed, 1994. *Evaluer un terrain ; aspects économiques et juridiques*, Paris : ADEF.

Conseil d'État. 1991. *L'urbanisme, pour un droit plus efficace*. Paris : La Documentation Française.

Conseil d'État. 2006. *Rapport public du Conseil d'État, 2006*. Paris : La Documentation Française.

Cachelot, François and Anne Boulanger. 2003. *Rapport de jurisprudence de la cour de cassation, 2ème partie, L'égalité dans la procédure d'expropriation*. Disponible sur le web (10/10/2006) : <http://www.courdecassation.fr/article6252.html>

Catalano, Francis. 1997 "Rôle (Le) du juge de l'expropriation." In *Etudes foncières*, Paris, ADEF, no 76, sept. 18-21

Choisy, Marie-Brigitte. 1998. "Désignation et fonctions du commissaire enquêteur." In *Gazette des communes*, no 1471, 5 oct. pp. 34-36

- Choubersky, Pierre and Serge Varague. 1974. " La politique foncière en région parisienne ", *Espaces et sociétés*, no 13-14, oct. pp.75-92
- Cobert, Liane. 1996. " L'ordonnance d'expropriation ", *Expropriation et aménagement*, Ponts Formation Edition, 15-17 oct. ENPC, 4 p.
- Cornaille, Alain. 2003. "La fiscalité immobilière en matière d'expropriation." *Etudes foncières* no 101, janv.-fév. pp. 24-28
- Dagnogo, Claire. 2004. " Les instruments de maîtrise foncière intercommunale. "In *Etudes foncières*, Paris, ADEF, No 108, mars pp. 23-26
- Deleglise, Caroline. 1995. *Rapport de l'A.D.E.F. : L'activité publique foncière*, mars, Ministère de l'Equipement, des Transports et du Tourisme
- Desbazeille, Bertrand, Michel Tailler, et al. 2003. *Infrastructures linéaires et aménagements fonciers*, Conseil général des ponts et chaussées - Conseil général du génie rural, des eaux et des forêts - Inspection générale de l'environnement, Paris, La Documentation Française, 102 p.
- DGUHC-Sous-direction du Droit de l'Habitat. 1999. *Expropriation pour cause d'utilité publique dans les copropriétés*, Ponts Formation Edition, oct. 13-15, ENPC.
- Dillage, Pierre. 1989. " Le rôle du juge de l'expropriation " *Etudes Foncières*, 42, march.
- Diot, Karelle. 2005 " La fin des conventions publiques d'aménagement." In *Gazette des communes*, no 1771, 3 jan. 2005.- pp. 52-55
- Direction Générale de l'Urbanisme de l'Habitat et de la Construction. 2004. *Politiques foncières locales. Prendre en compte le foncier dans le projet de territoire*, Collection Les Outils, guide, 63 p.
- Dourens, Christine and Pierre Vidal-Naquet. 1980. " Résidences (les) secondaires: appropriation et gestion de l'espace rural ", *Etudes foncières*, Paris, ADEF, no 7, déc., pp1-9
- Dubois, J.P. 1980 " Réparation (la) des moins values d'urbanisation. Les moins values dues à la proximité d'équipements publics." In *Etudes foncières*, ADEF, Paris, no 9, juill.-sept., pp. 15-21
- Fabre, Luce Henri. 1993 " Expropriation : un transfert de propriété révocable. " In *Etudes foncières*, Paris, ADEF, no 59, juin pp. 51-52
- Fouchier, Vincent. 1992. *Intervention des collectivités publiques dans le marché foncier*, Etude Magistère Aménagement Université de Paris 1 et Paris 8
- Goanac'h, Emilia. 2004 " Motivation (La) de la DUP après la loi "démocratie de proximité" du 27 février 2002 ", *Annales de la voirie*, No 85, avr. pp. 69-74
- Goutal, Yvon. 2005 " Conseils à suivre en matière foncière ", 13 juin, *Gazette des communes*, 20 juin 2006, n°1830, 2 p.
- Hervy, Denis. 1997. " Impact (L') foncier du TGV et les solutions françaises. in : Les impacts du TGV sur l'organisation de l'espace en France et en Corée. " In *Cahiers du CREPIF*, no 61, déc., pp. 115-120
- Hostiou, Rene. 2005 " L'expropriation aux normes européennes ", *Etudes foncières*, Paris, ADEF, No 115, May-June. Pp. 7-12.
- Hostiou, Rene. 2003 " Expropriation : le commissaire du gouvernement et le droit à un procès équitable ", *Etudes foncières*, Paris, ADEF, no 104, juill.-août pp. 8-12
- Hostiou, René. 2002. "L'expropriation, un droit en crise" *Etudes Foncières* n° 100, November-December, Pp. 40-42.
- Hostiou, Rene. 2001. "La valeur de la grotte Chauvet multipliée par 3000. " In *Etudes foncières*, Paris, ADEF, no 90, mars-avr. pp. 6-9

- Hostiou, Rene. 1994. "La propriété privée face au droit de l'environnement." In *Etudes foncières*, Paris, ADEF, no 65, déc.. pp. 29-35
- Hostiou, Rene. 1990 "Détournement de pouvoir en matière d'expropriation." In *Etudes foncières*, Paris, ADEF, no 47, juin pp. 6-7
- Hostiou, Rene. 1983. "Le droit de l'expropriation en quête de légitimité." In *Etudes foncières*, Paris, ADEF, no 20, mars.- pp. 1-5
- Huss, Helene. 1989. "Combien d'expropriations?" In *Etudes foncières*, Paris, ADEF, no 45, déc. pp.11-13
- Igonin, Leygue E and Eve T. Igonin Leygue. 1990. *Politiques foncières comparées: Espagne*, ADEF, Paris.
- Kaczmarek, Myriam. 2004. "Les zones d'aménagement concertées", 17 mai, *Gazette des communes*, n°1742, 9 p.
- Koltirine, Remi. 2001. "De l'urbanisme à visage humain", *Le Débat*, mai-août, n°115, pp.74-86
- Documentation Française. 2005. *Rapport du Conseil d'Etat, Etudes et documents du Conseil d'Etat*, Paris, 398 p.
- Documentation Française. 2006. *Rapport du Conseil d'Etat, Etudes et documents du Conseil d'Etat*, Paris, 411 p.
- La Gazette Des Communes. 2005. Questions d'actualité en droit des collectivités locales, Institut Notarial des collectivités locales, Dossier-cahier détaché n°2-40/1810, 24 octobre, Collection Documents, 32 p.
- Lanversin, Jacques (DE), Zitouni Françoise. 1994 "Les enquêtes publiques cherchent leur public", *Urbanisme*, mai-juin, n°274-275, pp. 93-95
- Levy, Frédéric. 1995. "L'expropriation des terrains pollués" in *Etudes Foncières* 68, September.
- Marine, Valerie. 1998 "Mise (La) en oeuvre des opérations programmées de l'habitat", *Gazette des communes*, no 1453, 11 mai pp. 30-32
- Martin, Jean-Yves. 1990 "Limites (les) de l'expropriation", *Etudes foncières* 46 Paris, ADEF. March.
- Masson-Daum, Catherine 1999. *Le fonctionnement des copropriétés, Intervenir sur les copropriétés : prévenir, décider et agir*, Ponts Formation Edition, 13-15 oct., ENPC, 5 p.
- Maxime, Danan Yves. 1991. "Propriété foncière et urbanisme, une difficile mais nécessaire conciliation", in : Beaujeu-Garnier Jacqueline, Dézert Bernard, Chemla Guy, et al., *La grande ville: enjeu du XXIe siècle : mélanges en hommage à Jean Bastié*, Paris : Presses universitaires de France. 622 p.
- Morlet, Olivier, "L'activité foncière communale au quotidien", *Etudes foncières* 78.
- Musso, Catherine. 1999. *Fixation des indemnités en matière d'expropriation*. Ponts Formation Edition. Expropriation : procédures et risques contentieux. 16-18 nov., ENPC, 7 p.
- Musso, Dominique. 1999. *Chronologie d'une opération d'expropriation* Expropriation : procédures et risques contentieux, Ponts Formation Edition, 16-18 nov., ENPC, 7 p.
- Peyrou, Amelie. 2006. "L'accès aux données du marché foncier", *Etudes foncières* 122. Paris : ADEF. July - August.
- Pittard, Yves. 2006 "Exproprier en ZAC : attention danger." In *Etudes foncières* 120 Paris, ADEF.
- Renard, Vincent. 2006 "La pertinence économique du droit de l'urbanisme" in *Mélanges en l'honneur de Henry Jacquot*. Orléans : Presses Universitaires d'Orléans.

- Renard, Vincent. 1996. “ Etats-Unis: les servitudes assimilées à une expropriation ”, *Etudes foncières* 74. Paris : ADEF.
- Renard, Vincent and Joseph Comby (Eds.). 1990. *Land Policy in France*. Paris: ADEF.
- Repentin, Thierry. 2005. *Facteurs fonciers et immobiliers de la crise du logement*, Rapport d’information du Sénat, Commission des Affaires économiques et du Plan, session ordinaire de 2004-2005, Annexe au procès-verbal de la séance du 29 juin, 76 p.
- Schmith, Bruno. 1995. “ Expropriation – préemption : le juste prix ”, *Diagonal* 115, octobre, pp. 54-56
- Schwing, Christel. 2004. “ Le juge, le maire et la Convention européenne : l'article L.480.5 du CU ”, *Etudes foncières*, Paris, ADEF, No 108, March. Pp. 31-35.
- Struillou, Jean-Francois. 1992. “ L’expropriation contraire aux droits de l’homme ? ”, *Etudes foncières*, Paris, ADEF, no 56, septembre. pp.34-37
- Talon, Jean-Francois. 1980 “ Expropriation, l’opposabilité des documents fiscaux ”, *Etudes foncières*, Paris, ADEF, no 7, déc.,pp. 1/10-14
- VV. AA. 1990. *Un droit inviolable et sacré, la propriété*, préface de Jean Frébault. Paris : ADEF.

GERMANY

- Rossi, Matthias, 2003, “ Les principales évolutions du droit de l’urbanisme en Allemagne en 2001 et 2002 ”, *Dauh*, n° 7, p. 527-537.

ITALY

- Bandarin, Francesco. “ Italie: 40 ans de politique foncière ”, *Etudes foncières*, Paris, ADEF, no 26, mars 1985.- pp. 38-41
- Karrer, Francesco. 1991. “PLD à l’italienne”, *Etudes Foncières* 50.
- Ramacci, Fabio. 2001. *La nueva espropiacion per pubblica utilità*. Napoli: Sistemi Editoriali.
- Roccella, Alberto. 2001 “ L’évolution du droit de l’urbanisme en Italie en 1999 et 2000 ”, *AFDUH*, n° 5, p. 1-12.
- Roccella, Alberto, 2003 “ Les évolutions du droit de l’urbanisme en Italie en 2001 et 2002 ”, *Dauh*, p. 549- 567.

SPAIN

- Fernández Pirla, Santiago. 1992. "Expropiación forzosa", *Revista de derecho urbanístico y medio ambiente*, Año n°: 26 Número: 127, pp. 87-108.
- García de Enterría, Eduardo and Parejo-Alfonso Luciano. 1994. “La ordenación urbanística y el derecho de propiedad”, *Revista Alegatos*, Número 28, pp. 451-490.
- Menéndez Rexach, Angel, 2002, “ L’évolution du droit de l’urbanisme en Espagne en 2000 et 2001 ”, *Dauh*, n° 6, p. 1-10.
- Menéndez-Rexach, Angel, 2004 “ L’évolution du droit de l’urbanisme en Espagne en 2002 et 2003 ”, *Dauh*, p. 819 à 829.

SWITZERLAND

Fluckiger, Alexandre. 2003. " L'évolution du droit de l'urbanisme en Suisse en 2001 et 2002 ", *Dauh*, n°7, p. 569-576.

UNITED KINGDOM

Booth, Philip. 2002. " Les évolutions du droit de l'urbanisme en Grande-Bretagne en 2001 et 2002 ", *Dauh*, n° 6, p. 539-548.

Cox, Andrew. 1984. *Adversary Politics and Land. The conflict over land and property policy in post-war Britain*. Cambridge: Cambridge University Press.

Davies, Keith. 1978. *The Law of Compulsory Purchase and Compensation*. London: Butterworths.

Hall, Peter. (2006). "UK Experience in Revitalizing Inner Cities". Paper presented at the conference "Land Policies for Urban Development". Lincoln Institute of Land Policy, Cambridge, Mass. June 2006.

Imrie, Rob and Thomas Huw. 1997. "Law, Legal Struggles and Urban Regeneration: Rethinking the Relationships" *Urban Studies*, 34 (9): 1401-1418

EASTERN EUROPE

Renard, Vincent and Rodrigo Acosta. 1993. *Land tenure and property development in Eastern Europe*. Paris: PIRVILLE-CNRS / ADEF.

OCEANIA

AUSTRALIA

Altman, Jon, Frances Morphy and Rowse Tim (Eds.) 1999. *Land Rights at Risk? Evaluations of the Reeves Report*. (Research Monograph No. 14), Canberra, Center for Aboriginal Economic Policy Research. (book review)

Hill, Ronald Paul. 1995 "Blackfellas and Whitefellas: Aboriginal land rights, the Mabo decision and the meaning of land". *Human Rights Quarterly*. Baltimore. May 1995 Vol. 17 Iss. 2

Merlan, Francesca. 1995. "The regimentation of customary practices: From Northern Territory Land Claims to Mabo". *Australian Journal of Anthropology*. Sidney 1995. Vol 6 Iss. 1-2

Russell, Peter. 2005. *Recognizing Aboriginal Title. The Mabo Case and Indigenous Resistance to English-Settler Colonialism*. Toronto: University of Toronto Press.

THE AMERICAS

BRASIL

Bruce, Albert. 1992. " Indian lands, environmental policy and military geopolitics in the development of the brazilian Amazon : the case of the Yanomami ", *Development and Change*, Vol. 23, p. 35-70

Goulet, Dennis. 2005 "Global governance, Dam conflicts and Participation". *Human Rights Quarterly*. Baltimore . August 2005 Vol. 27 Iss. 2

- Maricato, Erminia. 2000, (Coordinator) *Urban land and Social Policies: Acquisition and Expropriation*. Sao Paulo: Lincoln Institute of Land Policy working paper.
- Mougeot, L. 1988. “Planejamentos hidroelétrico e reinstalação de populações na Amazonia : primeiras lições de tucuruí, para ”, in Aubertin, Catherine (ed.); Becker, B. (pref.), *Fronteiras*, Brasília / Paris: Universidade de Brasília / ORSTOM.
- Padua Fernandes Bueno, Antonio (De), 2001, “Rue (La) assourdissante : genèse du droit de l'urbanisme brésilien ”, *Etudes foncières*, Paris, ADEF, no 89, janv.-fév. pp. 22-25
- Teles, Da Silva Solange, “L'évolution du droit de l'urbanisme au Brésil – 2003 et 2004 ”, *Droit Comparé*, GRIDAUH, 11 p.

CANADA

- Gantz, A. David. 2003. *Poe & Talbot Inc. v. Canada*. *The American Journal of International Law*. October 2003. Vol. 97
- Windsor, Mevey J. 2005. “Annihilation of both place and sense of place: the experience of the Cheslatta T'EN Canadian First Nation within the context of large-scale environmental projects”. *The Geographical Journal*. London. June 2005 Vol. 171

MEXICO

- Azuela, Antonio. 2006. *Visionarios y pragmáticos. Una aproximación sociológica al derecho ambiental*. México: Ediciones Fontamara / Instituto de Investigaciones Sociales, UNAM.
- Azuela, Antonio. 2006a. *Las compras del gobierno: datos blandos, percepciones duras*. Mexico: Instituto de Investigaciones Sociales, UNAM.
- Del Duca, Patrick. 2003. "The Rule of Law: Mexico's Approach to Expropriation Disputes in the Face of Investment Globalization". *UCLA Law Review*, Vol. 51, Available at SSRN: <http://ssrn.com/abstract=434340>
- Díaz y Díaz, Martín. 1988. “Las expropiaciones urbanísticas en México. Aproximaciones a un proceso sin teoría” en Serrano Migallón, Fernando (coord.). *Desarrollo urbano y derecho*. México: Departamento del Distrito Federal-Plaza y Valdés-UNAM.
- Díaz y Díaz, Martín. 1992. “Tres contextos nacionales para la expropiación forzosa: Argentina, España y México”, en *Revista de Investigaciones Jurídicas*, año 16, no. 16. México: Escuela Libre de Derecho.
- Hemond, A. 1994. “ "Indiens" ou "Civilisés" ? : l'affaire du barrage San Juan Tetelcingo (Mexique) ”, in: *Incertitudes identitaires* Bertrand Gerard, Marie-José Jolivet, (eds.) Paris : ORSTOM Cahiers des Sciences Humaines, Vol. 30, No 3, p. 391-410.
- Herrera, Carlos. 2006. *La jurisprudencia mexicana y la expropiación*. México: Lincoln Institute of Land Policy working paper.
- González Casanova, Pablo. 1964. *La democracia en México*. México: Era.
- Saavedra, Camilo, 2006. *Las expropiaciones federales de suelo urbano en México: 1968 -2004*. México: Lincoln Institute of Land Policy working paper.

U.S.A.

- Altshuler, Alan and David Duberoff, 2003. *Mega-Projects. The Changing Politics of Urban Public Investment*. Washington: The Brookings Institution / Lincoln Institute of Land Policy.
- Bergman, George. 1978. "États Unis" in Fromont (Ed.). *Les instruments juridiques de la politique foncière des villes. Etudes comparatives portant sur quatorze pays occidentaux*. Brussels : Etablissements Emile Bruylant.
- Callies, David, 1996. *Takings. Land development conditions and regulatory takings after Dolan and Lucas*. American bar association, Chicago.
- Calvert, Jerry W. 1979. "The Social and Ideological Bases of Support for Environmental Legislation: An Examination of Public Attitudes and Legislative Action", *Western Political Quarterly*, Vol. 32, No. 3 (Sep., 1979), pp. 327-337
- Claeys, Eric. 2003. "Takings, Regulations, and Natural Property Rights". *Cornell Law Review*, Vol. 88, September 2003 Available at SSRN: <http://ssrn.com/abstract=373661>
- Cypher, Mathew L and Fred A Forgery. 2003. "Eminent Domain: An Evaluation Based on Criteria Relating to Equity, Effectiveness, and Efficiency". *Urban Affairs Review* 39-2.
- Falque, Max. 1997. " Etats-Unis : l'indemnisation de l'expropriation : une législation en devenir ", *Etudes foncières*, Paris, ADEF, no 75, juin pp. 52-53
- Fennell, Lee Anne. 2004. "Taking Eminent Domain Apart" . *Michigan State Law Review*, p. 957, 2004 Available at SSRN: <http://ssrn.com/abstract=669208>
- Fischel, William. 1985. *The Economics of Zoning Laws. A Property Rights Approach to American Land Use Controls*. Baltimore and London: The Johns Hopkins University Press.
- Friedman, Gerald. 2001. "The Sanctity of Property in American History" PERI Working Paper No. 14. Available at SSRN: <http://ssrn.com/abstract=333282>
- Gordon Hylton, Joseph. 2000. "Prelude to Euclid. The United States Supreme Court and the Constitutionality of Land Use Regulation", *Washington University Journal of Law and Policy*, Volume 3, Chapter 1
- Klemenstrud, J. M. 1999. "The Use of Eminent Domain for Economic Development". *North Dakota Law Review*, 75.
- Krotoszynski Jr., Ronald J. 2002. "Expropriatory Intent: Defining the Proper Boundaries of Substantive Due Process and the Takings Clause". *North Carolina Law Review*, Vol. 80, No. 3, March 2002 Available at SSRN: <http://ssrn.com/abstract=286638>
- Mossoff, Adam. 2004. "The Death of Poletown: The Future of Eminent Domain and Urban Development after County of Wayne v. Hathcock" . *Michigan State Law Review*, p. 837, 2004 Available at SSRN: <http://ssrn.com/abstract=775885>
- Scheiber, Harry N. 1973. "Property Law, Expropriation, and Resource Allocation by Government: The United States, 1789-1910", *Journal of Economic History*, Vol. 33, No. 1, "The Tasks of Economic History" (Mar., 1973), pp. 232-251
- Sogg, Wilton and Warren Wertheimer. 1966. "Legal and Governmental issues in Urban Renewal" in *Urban Renewal: The Record and the Controversy*. Ed by James Q. Wilson. MIT Press.
- Talley, Brett. 2006. "Restraining Eminent Domain through Just Compensation: Kelo V. City of New London". *Harvard Journal of Law & Public Policy* 29, no. 2: 759+. <http://www.questia.com/PM.qst?a=o&d=5014310444>.

Tresolini, R. J. "Eminent Domain and the Requisition of Property during Emergencies", *Western Political Quarterly*, Vol. 7, No. 4 (Dec., 1954), pp. 570-587

THE MIDDLE EAST

Deboulet, Agnes, Mina Saidi, Tristan Khayat and Mona Fawaz. 2004. "Téhéran, Beyrouth, Le Caire : les citoyens face aux projets autoroutiers", *Urbanisme*, mai-juin, n°336, pp.29-38

Turk S., Sence. 2004. "The applicability of urban land acquisition methods for the provision of serviced residential land in Turkish case", *International Development Planning Review*, Liverpool University Press, vol. 6, n°2, pp. 141-163

SOURCES IN FRANCE

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